

Critical phases and statutes applicable to:

## Department of Juvenile Services

*33 Total Citations*

**A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process**

**Constitution of Maryland, Declaration of Rights, Article 47(a)**

### **Definitions**

*5 Specific Statutory Provisions*

#### **Delinquent Acts**

- *Definition of child respondent*

Criminal Procedure Article, § 11-101(a)&(b)

(a) In this title the following words have the meanings indicated.

(b) "Child respondent" means a person who:

- (1) in a petition filed in juvenile court, is alleged to have committed a delinquent act; or
- (2) has committed a delinquent act.

#### **Monetary Damages -- Restitution**

- *Definition of crime as it relates to restitution*

Criminal Procedure Article, § 11-601(d)

(d) (1) "Crime" means an act committed by a person in the State that is a crime under:

- (i) common law;
- (ii) § 109 of the Code of Public Local Laws of Caroline County;
- (iii) § 4-103 of the Code of Public Local Laws of Carroll County;
- (iv) § 8A-1 of the Code of Public Local Laws of Talbot County; or
- (v) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

- *Definition of victim as it relates to restitution*

Criminal Procedure Article, § 11-601(j)

(j) "Victim" means:

- (1) a person who suffers personal injury or property damage or loss as a direct result of a crime or delinquent act; or
- (2) if the person is deceased, the personal representative of the estate of the person.

- *Definition of victim and victim's representative as it relates to restitution*

Criminal Procedure Article, § 11-621(d)&(e)

(d) "Victim" means a person who suffers personal injury, death, or property loss as a direct result of crime.

(e) "Victim's representative" includes the personal representative of the estate of a deceased victim and a beneficiary under a wrongful death action.

---

## Definitions

---

### **Sexual Assault/Prohibited Exposure**

- *Definition of victim as it relates to HIV exposure/testing*

Criminal Procedure Article, § 11-107(f) & (g)

- (f) (1) "Victim" means the victim of a prohibited exposure.
  - (2) "Victim" includes:
    - (i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and
    - (ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.
    - (iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty
  - (g) "Victim's representative" means:
    - (1) the parent of a victim who is a minor;
    - (2) the legal guardian of a victim; or
    - (3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.
-

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

*8 Specific Statutory Provisions*

**Community Safety - Delinquent Acts**

- *Objectives of DJS; Parental accountability for delinquent child*

Courts and Judicial Proceedings Article, § 3-8A-02

(a) The purposes of this subtitle are:

- (1) To ensure that the Juvenile Justice System balances the following objectives for children who have committed delinquent acts:
  - (i) Public safety and the protection of the community;
  - (ii) Accountability of the child to the victim and the community for offenses committed; and
  - (iii) Competency and character development to assist children in becoming responsible and productive members of society;
- (2) To hold parents of children found to be delinquent responsible for the child's behavior and accountable to the victim and the community;
- (3) To hold parents of children found to be delinquent or in need of supervision responsible, where possible, for remedying the circumstances that required the court's intervention;
- (4) To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest;
- (5) To conserve and strengthen the child's family ties and to separate a child from his parents only when necessary for his welfare or in the interest of public safety;
- (6) If necessary to remove a child from his home, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents;
- (7) To provide to children in State care and custody:
  - (i) A safe, humane, and caring environment; and
  - (ii) Access to required services; and
- (8) To provide judicial procedures for carrying out the provisions of this subtitle.

(b) This subtitle shall be liberally construed to effectuate these purposes.

**Fair Treatment**

- *Guidelines - Definition of victim as it relates to fair treatment*

Criminal Procedure Article, § 11-1001(e)

(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.

**Health, Safety and Protection - Delinquent Acts**

- *Consideration of victim protection as release condition*

Courts and Judicial Proceedings Article, § 3-8A-15(j)

- (j) (1) If a child is alleged to have committed a delinquent act, the court or a juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, reasonable protections for the safety of the alleged victim.
- (2) If a victim has requested reasonable protections for safety, the court or juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

**Health, Safety and Protection - Delinquent Acts**

**Notification**

- *Guidelines - Receive notice of custody status*  
Criminal Procedure Article, § 11-1003(b)(8) & (c)
  - (b) A victim of a delinquent act, victim's representative, or witness:
    - (8) on written request to the appropriate unit, should be told any time that the child respondent is to be released or escapes.
  - (c) The Department of Juvenile Services shall make the guidelines in subsection (b) of this section available to the units involved with carrying out the guidelines.

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

## **Notification**

- *Advance notice of release, escape, transfer, death of child respondent*

Criminal Procedure Article, § 11-508

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Commitment unit" means a unit that a court orders to retain custody of a defendant or a child respondent and that receives a notification request form under § 11-104(f)(1) or (g) of this title.
- (3) "Release from confinement" means work release, home detention, or other administrative or statutorily authorized release of a defendant or child respondent from a confinement facility.
- (4) "Witness" means a person who:
- (i) knows of facts relating to a crime of violence or conspiracy or solicitation to commit a crime of violence; and
- (ii) 1. makes a declaration under oath that is received as evidence for any purpose; or  
2. has been served with a subpoena issued under the authority of a court of this or any other state or of the United States.
- (b) This section applies to a victim or victim's representative who has submitted a notification request form under § 11-104 of this title.
- (c) This section applies if a witness requests in writing that a commitment unit notify the witness in writing of the release from confinement of a defendant or child respondent.
- (d) On receipt of a notification request form under § 11-104(f)(1) or (g) of this title or a written request from a witness for notification, a commitment unit, if practicable, shall notify the victim, victim's representative, or witness of:
- (1) receipt of the notification request form;
- (2) the date when the defendant or child respondent was placed in the custody of the commitment unit;
- (3) how to change the address to receive notice for the victim, victim's representative, witness, or the person to receive notice for the victim; and
- (4) how to elect not to receive future notices.
- (e) The commitment unit shall notify a victim, victim's representative, or witness, in advance if practicable, if any of the following events occur concerning the defendant or child respondent:
- (1) an escape;
- (2) a recapture;
- (3) a transfer to another commitment unit;
- (4) a release from confinement and any conditions attached to the release; and
- (5) the death of the defendant or child respondent.
- (f) A commitment unit may not disclose to a defendant or child respondent the address or telephone number of a witness, victim, victim's representative, or person who receives notice for the victim.
- (g) An elected public official, public employee, or public unit has the immunity described in §§ 5-302 and 5-522 of the Courts Article regarding civil liability for damages arising out of an action relating to this section, unless the official, employee, or unit acts with gross negligence or in bad faith.

## **Privacy**

- *Non-disclosure of victim/witness address and phone number*

Criminal Procedure Article, § 11-508(f)

- (f) A commitment unit may not disclose to a defendant or child respondent the address or telephone number of a witness, victim, victim's representative, or person who receives notice for the victim.

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

## **Privacy**

## **Miscellaneous**

- *Receive help, care and support provided by the State*

Criminal Procedure Article, § 11-802

(a) The General Assembly finds:

- (1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;
- (2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and
- (3) that there is a need for government financial assistance for these victims.

(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.

- *Applicability of guidelines*

Courts and Judicial Proceedings Article, § 3-8A-34

The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.

***In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process***

**First contact with Victim**

*1 Specific Statutory Provision*

**Notification - Sexual Assault/Prohibited Exposure**

- *Responsibility for notifying victim of sexual assault crisis programs*

Criminal Procedure Article, § 11-113(c)

(c) The following shall notify a victim of prohibited exposure or the victim's representative of the provisions of Part II of this subtitle:

- (1) a sexual assault crisis program established under § 11-923 of this title when a victim or victim's representative contacts the program;
- (2) an intake officer who receives a complaint for the alleged prohibited exposure under § 3-8A-10 of the Courts Article; or
- (3) on the filing of a charging document or delinquency petition for the alleged prohibited exposure:
  - (i) the Department of State Police;
  - (ii) the Police Department of Baltimore City;
  - (iii) the police unit of a county;
  - (iv) the police unit of a municipal corporation;
  - (v) the office of the sheriff of a county;
  - (vi) the office of the State's Attorney of a county;
  - (vii) the office of the Attorney General;
  - (viii) the office of the State Prosecutor;
  - (ix) the Department of Juvenile Services; or
  - (x) the police unit of a bicounty unit or the University of Maryland.

**Pre-trial/Pre-hearing**

**9 Specific Statutory Provisions**

**Be Heard**

- *Consent required prior to informal adjustment in juvenile cases*

Courts and Judicial Proceedings Article, § 3-8A-10(e)(3)

- (e) (3) The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure.

- *Procedures when consent not given*

Courts and Judicial Proceedings Article, § 3-8A-10(f)

- (f) (1) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate and if the intake officer decides to have an intake conference, the child and the child's parent or guardian shall appear at the intake conference.
- (2) The informal adjustment process may not exceed 90 days unless that time is extended by the court.
- (3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.
- (4) If at any time before the completion of an agreed upon informal adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

**Health, Safety and Protection**

- *Consideration for release of defendant/respondent and conditions of release*

Criminal Procedure Article, § 11-203

As provided under § 5-201 of this article or § 3-8A-15 of the Courts Article, the court, a juvenile intake officer, or a District Court commissioner shall consider:

- (1) the safety of the alleged victim in setting conditions of:
  - (i) the pretrial release of a defendant; or
  - (ii) the prehearing release of a child respondent who is alleged to have committed a delinquent act; and
- (2) a condition of no contact with the alleged victim or the alleged victim's premises or place of employment.



## **Pre-trial/Pre-hearing**

### **Health, Safety and Protection - Peace Orders - Delinquent Acts**

- *Issuance of Peace Order against juvenile*

Courts and Judicial Proceedings Article, § 3-8A-19.1(b)

- (b) (1) Except as provided in paragraph (2) of this subsection, after an inquiry conducted in accordance with § 3-8A-10 of this subtitle, an intake officer may file with the court a peace order request that alleges the commission of any of the following acts against a victim by the respondent, if the act occurred within 30 days before the filing of the complaint under § 3-8A-10 of this subtitle:
- (i) An act that causes serious bodily harm;
  - (ii) An act that places the victim in fear of imminent serious bodily harm;
  - (iii) Assault in any degree;
  - (iv) Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
  - (v) False imprisonment;
  - (vi) Harassment under § 3-803 of the Criminal Law Article;
  - (vii) Stalking under § 3-802 of the Criminal Law Article;
  - (viii) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or
  - (ix) Malicious destruction of property under § 6-301 of the Criminal Law Article.
- (2) After a review conducted in accordance with § 3-8A-10 (c) (4) (ii) of this subtitle, the State's Attorney may file with the court a peace order request that meets the requirements of paragraph (1) of this subsection.

- *Issuance of Peace Order against juvenile*

Courts and Judicial Proceedings Article, § 3-8A-19.2(b)(2)

- (b) (2) If the court finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, an act specified in § 3-8A-19.1(b) of this subtitle against the victim, or if the respondent consents to the entry of a peace order, the court may issue a peace order to protect the victim.

## **Notification**

- *Authorization of filing petition/peace order in juvenile cases*

Courts and Judicial Proceedings Article, § 3-8A-10(d)

- (d) (1) Subject to the provisions of § 3-8A-10.1 of this subtitle, the intake officer may authorize the filing of a petition or a peace order request or both if, based upon the complaint and the inquiry, the intake officer concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child.
- (2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4-203 or § 4-204 of the Criminal Law Article.
- (3) In delinquency cases, the need for restitution may be considered by the intake officer as one factor in the public interest.
- (4) The intake officer shall inform the following persons of any authorization decision specified in paragraph (1) of this subsection and the reasons for the decision:
- (i) The child who is the subject of the complaint, if practicable;
  - (ii) The parent, guardian, or custodian of the child who is the subject of the complaint;
  - (iii) The victim;
  - (iv) The arresting police officer; and
  - (v) The person or agency that filed the complaint or caused it to be filed.

## **Pre-trial/Pre-hearing**

### **Notification**

- *Informal adjustment of complaint/peace order*

Courts and Judicial Proceedings Article, § 3-8A-10(e)(1)&(2)

- (e) (1) The intake officer may propose an informal adjustment of the matter if, based on the complaint and the inquiry, the intake officer concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.
- (2) The intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

- *Reasons for denial of authorization to file petition/peace order*

Courts and Judicial Proceedings Article, § 3-8A-10(g)

- (g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition or a peace order request or both.
- (2) If the intake officer denies authorization to file a petition or a peace order request or both, the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:
  - (i) The victim;
  - (ii) The arresting police officer; and
  - (iii) The person or agency that filed the complaint or caused it to be filed.
- (3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3-8A-11 of this subtitle.

### **Privacy**

- *When victim's address and phone number may be withheld pretrial/prehearing*

Criminal Procedure Article, § 11-205

On request of the State, a victim of or witness to a felony or delinquent act that would be a felony if committed by an adult, or a victim's representative, a judge, State's Attorney, District Court commissioner, intake officer, or law enforcement officer may withhold the address or telephone number of the victim, victim's representative, or witness before the trial or adjudicatory hearing in a juvenile delinquency proceeding, unless a judge determines that good cause has been shown for the release of the information.

**Be Heard**

- *Consideration of Victim Impact Statement in presentence/predisposition investigation; Victim Impact Statement must be included in PSI/PDI*

Criminal Procedure Article, § 11-402(a)

- (a) A presentence investigation that the Division of Parole and Probation completes under § 6-112 of the Correctional Services Article or a predisposition investigation that the Department of Juvenile Services completes shall include a victim impact statement if:

- (1) the defendant or child respondent caused physical, psychological, or economic injury to the victim in committing a felony or delinquent act that would be a felony if committed by an adult; or
- (2) the defendant caused serious physical injury or death to the victim in committing a misdemeanor.

- *Contents of Victim Impact Statement*

Criminal Procedure Article, § 11-402(e)&(f)

- (e) A victim impact statement for a crime or delinquent act shall:

- (1) identify the victim;
- (2) itemize any economic loss suffered by the victim;
- (3) identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
- (4) describe any change in the victim's personal welfare or familial relationships;
- (5) identify any request for psychological services initiated by the victim or the victim's family;
- (6) identify any request by the victim to prohibit the defendant or child respondent from having contact with the victim as a condition of probation, parole, mandatory supervision, work release, or any other judicial or administrative release of the defendant or child respondent; and
- (7) contain any other information related to the impact on the victim or the victim's family that the court requires.

- (f) If the victim is deceased, under a mental, physical, or legal disability, or otherwise unable to provide the information required under this section, the information may be obtained from the victim's representative.

**Post-conviction/Post-disposition**

*8 Specific Statutory Provisions*

**Monetary Damages -- Restitution**

- *Administration of payment*

Criminal Procedure Article, § 11-607(b)

- (b) (1) The restitution obligor shall make restitution to the Division or the Department of Juvenile Services under the terms and conditions of the judgment of restitution.
- (2) The Division or the Department of Juvenile Services:
  - (i) shall keep records of payments or return of property in satisfaction of the judgment of restitution;
  - (ii) shall forward property or payments in accordance with the judgment of restitution and Part I of this subtitle to:
    - 1. the victim;
    - 2. the Department of Health and Mental Hygiene or other governmental unit; or
    - 3. the third-party payor; and
  - (iii) may require the restitution obligor to pay additional fees not exceeding 2% of the amount of the judgment of restitution to pay for the administrative costs of collecting payments or property.

- *Penalty for failure to pay restitution*

Criminal Procedure Article, § 11-607(c)

- (c) (1) Whenever an obligor's restitution payment, as ordered by the court or established by the Division, is overdue, the Division or the Department of Juvenile Services shall:
  - (i) notify the court; and
  - (ii) if an earnings withholding order is not in effect and the restitution obligor is employed, request an earnings withholding order.
- (2) The court may hold a hearing to determine whether the restitution obligor is in contempt of court or has violated the terms of the probation.
- (3) If the court finds that the restitution obligor intentionally became impoverished to avoid payment of the restitution, the court may find the restitution obligor in contempt of court or in violation of probation.

- *Considered abandoned property if victim not located*

Criminal Procedure Article, § 11-614(b)

- (b) If a victim cannot be located, all money collected from a judgment of restitution shall be treated as abandoned property under Title 17 of the Commercial Law Article.

- *Referral to Central Collection when overdue*

Criminal Procedure Article, § 11-616(a)

- (a) The Division or the Department of Juvenile Services:
  - (1) in addition to other actions authorized under Part I of this subtitle, may refer an overdue restitution account for collection to the Central Collection Unit; and
  - (2) if probation or other supervision is terminated and restitution is still owed, shall refer the overdue restitution account for collection to the Central Collection Unit.

---

## **Post-conviction/Post-disposition**

---

### **Monetary Damages -- Restitution**

- *Consent required prior to settlement of restitution judgment*  
Criminal Procedure Article, § 11-616(c)
  - (c) (1) The Central Collection Unit may not compromise and settle a judgment of restitution unless:
    - (i) the Division or the Department of Juvenile Services obtains the consent of the victim; or
    - (ii) the court orders otherwise because a victim cannot be located.
  - (2) The Division or the Department of Juvenile Services shall contact the victim to determine whether the victim consents to compromise and settle a judgment of restitution.
- *Satisfaction of judgment of restitution*  
Criminal Procedure Article, § 11-616(d)
  - (d) If complete restitution and interest have been paid or a judgment of restitution has been compromised and settled as provided in subsection (c) of this section, the Division, the Department of Juvenile Services, or the Central Collection Unit immediately shall notify:
    - (1) the court that issued the judgment by filing the statement as provided under § 11-608(c) of this subtitle that the judgment has been satisfied; and
    - (2) the last known employer of a restitution obligor to terminate an earnings withholding order issued under § 11-617 of this subtitle.
- *Determination of overdue restitution*  
Criminal Procedure Article, § 11-616(e)
  - (e) (1) Restitution is overdue if the restitution or a restitution payment is not paid:
    - (i) by the date that the court orders; or
    - (ii) if no date is ordered, by the later of:
      - 1. the date the Division or the Department of Juvenile Services directs the restitution obligor to pay restitution or make a restitution payment; or
      - 2. 30 days after the court enters a judgment of restitution.
  - (2) If restitution is overdue, the amount of the arrearage is the amount of restitution ordered and any interest allowed by law, minus any amount previously paid or received under the judgment of restitution.

---

### **Notification - Probation**

- *Notification of issuance of warrant/subpoena for offender for alleged violation of condition of probation*  
Criminal Procedure Article, § 11-507  
The Department or the Department of Juvenile Services shall notify the victim or victim's representative of an alleged violation of a condition of probation whenever:
  - (1) a warrant, subpoena, or writ of attachment is issued for the alleged violation for a person who was convicted of a violent crime or who was adjudged to have committed a delinquent act that would be a violent crime if committed by an adult; and
  - (2) a victim of the crime or delinquent act or a victim's representative has submitted a written request to the Department for notification or has submitted a notification request form under § 11-104 of this title.